

BPA's Compliance with Order 2003  
Preliminary Comments of the Public Generating Pool  
January 9, 2004

The utility members of the Public Generating Pool (PGP) submit the following comments on TBL's proposal to comply with Order 2003 of the Federal Energy Regulatory Commission (FERC).<sup>1</sup> PGP representatives attended the public meeting on this topic on December 11, 2003, and have requested additional information since then on the subject of TBL's overall policies on refunds provided to transmission customers under the Advance Funding (AF) rate schedule. Specifically, the PGP has requested that TBL release a draft policy on refunds under the AF rate, currently under development, so that the entire picture of refunds to transmission customers and new interconnecting generators can be understood before comments on BPA's compliance with Order 2003 itself are required. However, as BPA has elected not to provide this additional information, the PGP has decided to submit these preliminary comments. If and when additional information is made available, as requested, the PGP expects that BPA will provide an opportunity for interested parties to develop and submit supplemental comments. These comments only address the requirement in Order 2003 that the Transmission Provider provide cash refunds for Network Upgrades, paid as credits against bills for transmission service (see Article 11, §4 of the Standard Large Generator Interconnection Agreement).

1. Under the explicit language of Order 2003, TBL is actually exempt from the refund requirements of Order 2003. Specifically, ¶843 states that the Commission does "not require . . . that a non-public utility also provide transmission credits for Network Upgrade costs, to satisfy the Commission's reciprocity standard."<sup>2</sup> BPA thus has the discretion to comply (or not) with the refund provisions of Order 2003 and, by inference, has the discretion to impose limitations or conditions on its compliance.
2. If TBL decides to provide refunds for Network Upgrade costs, conditions should be imposed. Most importantly, TBL should not issue any refunds or credits unless there are offsetting incremental transmission revenues, from the Large Generator or some other party, that justify providing the refunds. Because the credits are transferable, TBL faces the possibility that an interconnection would be provided, and Network Upgrade costs refunded over a five year period, without any offsetting incremental transmission or ancillary service revenues.<sup>3</sup> For example, the Large Generator could require TBL to incur \$10 million of Network Upgrade costs, provide the funds to TBL for the construction of the Upgrade, but not request long-term or short-term firm transmission service for the project. Rather, the new Generator could be designated as a new Network Resource under an existing NT customer's long-term transmission

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<sup>1</sup> "Standardization of Generator Interconnection Agreements and Procedures", 104 FERC ¶61,103, Docket No. RM02-1-000, July 24, 2003. PGP members include Cowlitz County PUD, Douglas County PUD, Grant County PUD, Pend Oreille County PUD, and Seattle City Light.

<sup>2</sup> *Ibid.*, slip op. at 176.

<sup>3</sup> For example, ¶676 of Order 2003 only requires that the Transmission Provider "continues to receive payments for transmission service with respect to the Generating Facility during this period." *Ibid.*, slip op. at 130-131. There is no requirement that the Transmission Provider receive incremental revenues.

contract, or its energy could be transmitted via firm redirected transmission service under an existing PTP customer's long-term transmission contract (assuming in both cases that there is ATC). Because of the billing determinants for both NT and PTP service, TBL would expect to receive no incremental transmission or ancillary service revenues, yet would be obligated to provide \$2 million per year in transmission credits, which could be assigned by the generator (in whole or in part) to the NT or PTP customer. The result would be that all transmission customers would pay higher rates, so that an individual transmission customer would pay lower rates (i.e., receive the credit). This would constitute a cost shift with no commensurate obvious improvement in overall system efficiency or reliability. Therefore, before any commitment can be made that Network Upgrade refunds will be provided, two conditions should be met. First, TBL should have tangible evidence of incremental transmission revenues (e.g., a signed transmission service agreement from a PTP customer naming the new generator as a POI in an amount sufficient to at least offset the credits on a present value basis). Second, the credits should be provided only if and when the incremental transmission revenues begin to be received by TBL, not when the Network Upgrade is placed into service.<sup>4</sup>

3. Another problem is the duration of the refund obligation. The five-year refund rule in Order 2003 is too short for large Network Upgrades,<sup>5</sup> because it could mean that expensive and long-lived transmission projects would be effectively revenue-financed over a period much shorter than their service lives. While this result may have a minor effect if the Upgrade is small and relatively inexpensive, it would create a serious distortion of the normal rules of transmission pricing if applied across the board and to large projects. It would also contradict TBL's current policy on revenue-financing, established in the most recent rate case, which is to limit revenue-financing to assets with useful lives of five years or less.<sup>6</sup> Transmission Customers with contracts that expire within five years, and who have agreed to pay the embedded cost of the system for such period, could be required to pay for Upgrades that will benefit customers for periods much longer than five years; this raises questions of intergenerational equity that can be avoided by a lengthier refund period. Instead of revenue-financing, the PGP recognizes that refunds for large Network Upgrades could be funded by increased borrowing, but that approach would use up BPA's scarce borrowing authority at the U.S. Treasury. Rather than raise these issues of intergeneration equity or accelerated use of scarce borrowing authority, it would be more sensible to offer the refunds over no less than 15 to 20 years. This would be a reasonable compromise between the five years required by Order 2003 and the normal period of financing for transmission investments funded by bonds, which is 35 years.<sup>7</sup>

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<sup>4</sup> See ¶676, which stipulates that the refunds begin when the Upgrade is placed into service, rather than connecting the refunds to the receipt by the Transmission Provider of transmission service revenues.

<sup>5</sup> TBL should develop, in cooperation with interested parties, a standard for "large Network Upgrades" that would trigger a lengthier refunding period; the PGP does not propose a specific definition here.

<sup>6</sup> See the 2004 Initial Transmission Proposal, Revenue Requirement Study, TR-04-E-BPA-01, January 2003, at 17 and the testimony of Homenick *et al.*, TR-04-E-BPA-05, at 4.

<sup>7</sup> See TR-04-E-BPA-01 at 18.

4. Finally, TBL should release the business practice on credits provided to PTP and NT customers under the Advance Funding rate as soon as possible, so that all of TBL's customers can assess the impact in total of these credit and refund policies. A reasonable comment period should be permitted on this business practice. TBL should not comply with Order 2003 until it has released the business practice on PTP and NT credits and taken comments. TBL's final decisions on credits and refunds under both the Advance Funding rate and Order 2003 should take into account all comments submitted, and should in addition avoid unreasonable increases in BPA's rates or excessive use of BPA's borrowing authority.